

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION
AND IS NOT BINDING PRECEDENT OF THE BOARD**

Filed by: Trial Section Merits Panel
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Paper No. 107

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

EDWARD P. CHESLOCK, ERIC L. CANFIELD,
and RICHARD K. HARRIS

Junior Party,
(Patent Nos. 5,833,367, 6,030,117, 6,042,266)¹

v.

FRANK BEERWERTH, BERNHARD KRAUS,
and KATJA HONNEFELLER

Senior Party
(Application 09/117,724)²

Patent Interference No. 104,708

Before SCHAFER, LEE, and TORCZON, Administrative Patent Judges.

LEE, Administrative Patent Judge.

Judgment

Interference No. 104,708
Cheslock v. Beerwerth

On November 21, 2002, junior party Cheslock filed a paper requesting entry of adverse judgment with respect to Counts 1 and 3. (Paper No. 106) The request is **granted**.

On November 21, 2002, senior party Beerwerth filed a paper to indicate that it does not intend to seek review at final hearing of the motion panel's holding of unpatentability of all of senior party's claims corresponding to Count 2, claims 23, 24, and 25, for lack of written description in the specification.

Neither party filed a paper within the time permitted to indicate disagreement with the motion panel's view that assuming all of senior party's claims corresponding to Count 2 are unpatentable for lack of written description in the specification then the senior party is without standing to continue in this proceeding to a priority determination with respect to Count 2.

Therefore, it is now time appropriate to enter judgment and terminate this interference.

It is

ORDERED that Count 2 of this interference is hereby cancelled in light of senior party's lack of standing to continue to the priority phase with respect to that count;

FURTHER ORDERED that judgment as to the subject matter of Count 1 is hereby entered against junior party EDWARD P. CHESLOCK, ERIC L. CANFIELD, and RICHARD K. HARRIS;

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CANFIELD, and RICHARD K. HARRIS is not entitled to its claims 1-4 and 8-21 of involved Patent No. 5,833,367, which correspond to Count 1 ;

FURTHER ORDERED that junior party EDWARD P. CHESLOCK, ERIC L. CANFIELD, and RICHARD K. HARRIS is not entitled to its claim 22 of involved Patent No. 5,833,367, its claims 1, 3-8, and 10-14 of involved Patent No. 6,030,117, and its claims 1-7 of involved Patent No. 6,042,266, which correspond to Count 3;

FURTHER ORDERED that senior party FRANK BEERWERTH, BERNHARD KRAUS, and KATJA HONNEFELLER is not entitled to its application claims 23, 24, and 25, in accordance with the decision on preliminary motions (Paper No. 94);

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and 37 CFR § 1.666; and

FURTHER ORDERED that a copy of this judgment be filed in the respective involved application or patent of the parties.

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Cheslock v. Beerwerth

Richard E. Schafer)	
Administrative Patent Judge)	
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Richard Torczon)	
Administrative Patent Judge)	

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By Facsimile

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